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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,131	07/11/2001	Wright J. Nee	ROC920000321US1	9531
James R. Nock IBM Corporation, Dept. 917 3605 Highway 52 North Rochester, MN 55901-7829				
EXAMINER				
ADDY, THUAN KNOWLIN				
ART UNIT		PAPER NUMBER		
2614				
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10/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/903,131

Applicant(s)

NEE, WRIGHT J.

Examiner

THJUAN K. ADDY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-13, 15-29, 31-39, and 41 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 4-13, 15-29, 31-39, and 41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on July 11, 2008 has been entered. Claims 1, 15-17, 28, 32, 35, and 39 have been amended. Claims 2, 3, 14, 30, 40, and 42 have been cancelled. No claims have been added. Claims 1, 4-13, 15-29, 31-39, and 41 are still pending in this application, with claims 1 and 35 being independent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-13, 15-29, 31-39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clayton et al. (US 6,725,022), in view of Schwob (US 5,393,713).
3. In regards to claims 1, 26, 29, 31, 32, 35, 39, and 41, Clayton discloses an apparatus (See Fig. 1 - Fig. 2 and multimedia device 20) and method for selecting broadcast signals (See col. 5-6 lines 65-13), the apparatus and method comprising: a tuner (See Fig. 2 and tuner 164) for receiving a plurality of live AM/FM broadcast signals from a plurality of AM/FM broadcast sources (See col.

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9 lines 14-21), a memory, the memory including: a set of listener preferences including program choices (for example, the program choices may simply be MTV, CNN, CBS, or any syndicated programming) (See Abstract and col. 7 lines 55-59). Clayton, however, does not disclose the memory including: a current location of the receiver and the current time of day; a local, dynamically updatable database of AM/FM broadcast sources for a plurality of AM/FM broadcast locations, the local, dynamically updatable database including program information associated with each of the plurality of AM/FM broadcast locations for a given time of day; and a processor coupled to the tuner and the memory for "electing a group of live AM/FM broadcast signals from the plurality of live AM/FM broadcast signals based on a predetermined selection criteria and the local, dynamically updatable database of AM/FM broadcast sources for a plurality of AM/FM broadcast locations, wherein the predetermined selection criteria includes the plurality of receivable AM/FM broadcast signals, the current location of the receiver and the current time of day, and the set of listener preferences including program choices. Schwob, however, does disclose the memory (See Fig. 1, ROM 3 and Fig. 20 RAM/memory means 42) including: a current location of the receiver and the current time of day (See col. 5-6 lines 57-64 and col. 6 lines 39-44); a local, dynamically updatable database of AM/FM broadcast sources for a plurality of AM/FM broadcast locations, the local, dynamically updatable database including program information associated with each of the plurality of AM/FM broadcast locations for a given time of day (See col. 19-20 lines 64-4 and col. 20 lines 19-31); and a processor (See Fig. 20 and CPU 2)

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coupled to the tuner and the memory for selecting a group of live AM/FM broadcast signals from the plurality of live AM/FM broadcast signals based on a predetermined selection criteria and the local, dynamically updatable database of AM/FM broadcast sources for a plurality of AM/FM broadcast locations (See col. 19-20 lines 64-4), wherein the predetermined selection criteria includes the plurality of receivable AM/FM broadcast signals, the current location of the receiver and the current time of day, and the set of listener preferences including program choices (See col. 5-6 lines 57-64 and col. 6 lines 39-44). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to incorporate these limitations within the apparatus and method, as a way of providing an automatic updating procedure which allows the data stored in the receiver to be easily updated.

4. In regards to claim 4, Schwob discloses the apparatus, wherein the current location of the receiver is entered by the listener (See col. 7 lines 29-38 and col. 10 lines 61-67).

5. In regards to claims 5 and 38, Schwob discloses all of claims 5 and 38 limitations, except the apparatus and method, wherein the current location entered by the listener is a zip code. Schwob, however, does disclose wherein the current location entered by the listener is a city name (See col. 7 lines 29-38 and col. 10 lines 61-67).

6. In regards to claim 6, Schwob discloses all of claim 6 limitations, except the apparatus, wherein the current location entered by the listener is a city code.

Schwob, however, does disclose wherein the current location entered by the listener is a city name (See col. 7 lines 29-38 and col. 10 lines 61-67).

7. In regards to claim 7, Schwob discloses the apparatus, wherein the current location entered by the listener is a city name (See col. 7 lines 29-38 and col. 10 lines 61-67).

8. In regards to claim 8, Schwob discloses the apparatus, wherein the current location entered by the listener is entered via a keypad (See Fig. 2, keys 34 and 35 and Fig. 15, switches 212 and 214) integral to the apparatus (See col. 7 lines 29-38 and col. 10 lines 61-67).

9. In regards to claim 9, Clayton discloses the apparatus, wherein the current location entered by the listener is entered via voice input (See col. 7 lines 47-54).

10. In regards to claims 10 and 36, Clayton discloses the apparatus and method, wherein the current location of the receiver is provided by a global positioning system (GPS) receiver (GPS receiver 40) integral to the apparatus (See col. 8 lines 31-40).

11. In regards to claim 11, Clayton discloses the apparatus, wherein the current location of the receiver is provided by a global positioning system (GPS) receiver external to the apparatus (See col. 11 lines 57-62).

12. In regards to claims 12 and 13, Clayton discloses the apparatus, wherein the current location of the receiver is provided by a cellular phone integral to the apparatus (See col. 7 lines 60-64 and col. 12 lines 15-24).

13. In regards to claims 15, 16, and 17, Clayton discloses the apparatus, wherein the local database of AM/FM broadcast services is provided to the

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receiver by a CD-ROM disc, a CD-RW disc, or a writable DVD (See col. 5 lines 20-22).

14. In regards to claims 18 and 27, Clayton discloses the apparatus, wherein the apparatus further includes an I/O port for transferring information from an external device to the apparatus (See col. 12 lines 15-24).

15. In regards to claim 19, Clayton discloses the apparatus, wherein the external device is coupled to the I/O port via a wired connection (See col. 12 lines 15-24).

16. In regards to claims 20, 21, and 22, Clayton discloses the apparatus, wherein the external device is coupled to the I/O port via a wireless connection (See col. 12 lines 15-24).

17. In regards to claim 23, Clayton discloses the apparatus, wherein the external device is a personal digital assistant (PDA) (See Fig. 1 and remote programming devices 40) (See col. 7 lines 60-64 and col. 12 lines 15-24).

18. In regards to claim 24, Clayton discloses the apparatus, wherein the external device is a personal computer (PC) (See Fig. 1 and remote programming devices 40) (See col. 7 lines 60-64 and col. 12 lines 15-24).

19. In regards to claim 25, Clayton discloses the apparatus, wherein the external device is a wireless phone (See Fig. 1 and remote programming devices 40) (See col. 7 lines 60-64 and col. 12 lines 15-24).

20. In regards to claim 28, Clayton discloses the apparatus, wherein the transferred information includes the database of broadcast sources and program information (See col. 11 lines 7-21).

21. In regards to claim 33, Schwob discloses the apparatus, wherein the receiver is mounted within a mobile vehicle (See col. 17 lines 29-37).

22. In regards to claims 34 and 37, Schwob discloses the apparatus and method, wherein the receiver is a hand-held device (See Fig. 16 and col. 19 lines 30-43).

Response to Arguments

23. Applicant's arguments with respect to claims 1, 4-13, 15-29, 31-39, and 41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

25. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee et al. (US 6,728,531) teach a method and apparatus for remotely configuring a wireless communication device. Nakatsuyama (US 6,658,231) teach a receiver for user-demand information and entertainment system using wide area digital broadcast.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THJUAN K. ADDY whose telephone number is (571)272-7486. The examiner can normally be reached on Mon-Fri 8:30-5:00pm.

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thjuan K. Addy/
Primary Examiner, Art Unit 2614